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6 Attorneys for Defendant  
7 UNITED AIRLINES, INC.

8 UNITED STATES DISTRICT COURT  
9 DISTRICT OF NEVADA

11 PETER SLACK, an Individual,  
12 Plaintiff,

13 vs.

14 UNITED AIRLINES, INC., a Foreign  
15 Corporation, DOES I-X; and ROE  
16 CORPORATIONS I-X,  
17 Defendant.

Case No. 2:18-cv-00899-GMN-CWH

**[PROPOSED] STIPULATION AND  
ORDER TO STAY DISCOVERY**

18 Plaintiff Peter Slack ("Plaintiff") and Defendant United Airlines, Inc. ("Defendant"), by and  
19 through their respective attorneys hereby stipulate to and request that the Court grant a stay in  
20 discovery pending a decision on Defendant's Motion to Dismiss [ECF No. 9] and Plaintiff's Motion  
21 to Amend [ECF No. 14] or up to and including Tuesday, March 19, 2019, whichever is earlier.

22 The parties request a temporary stay in discovery to avoid unnecessarily incurring the  
23 significant costs and fees associated with any duplicative and/or over-expansive discovery that may  
24 result if discovery is to continue at this point prior to clarification on the pleadings. Specifically, the  
25 parties require a ruling on Defendant's Motion to Dismiss [ECF No. 9] and Plaintiff's Motion to  
26 Amend [ECF No. 14] to know what claims may exist at this stage of the litigation and in order to  
27 evaluate what additional discovery, of any, is necessary. For example, the parties cannot  
28

1 meaningfully depose any witnesses without knowing what claims are and/or are not a part of this  
2 lawsuit.

3 In assessing a request to stay discovery, the Court decides whether it is necessary to speed  
4 the parties along in discovery or whether it is more appropriate to delay discovery and spare the  
5 parties the associated expense. *Tradebay, LLC, v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D. Nev. 2011).  
6 To make this assessment, the court takes a “preliminary peek” at the merits of the purportedly  
7 dispositive motion, though, importantly, this “preliminary peek” does not prejudge the outcome of  
8 the motion, it merely evaluates whether an order staying discovery is warranted. *Id.* The merits of  
9 the pending motion will ultimately be determined by the district judge, who may have a different  
10 view than the magistrate judge. *Id.*

11 Defendant’s Motion is of the type warranting a stay in discovery. Because Defendant  
12 contends that Plaintiff’s claims are deficient as plead under *Iqbal* and *Twombly* and Defendant has  
13 moved to dismiss the entire case which would be case dispositive, if granted. Further, Plaintiff has  
14 not been apprised of which factual allegations Defendant intends to admit, and which Defendant  
15 intends to deny. Nor has Plaintiff been apprised of the defenses Defendant intends to assert.  
16 Plaintiff believes this would severely limit his opportunity to conduct full discovery while the  
17 motion is pending.

18 Plaintiff disputes the legal arguments made in Defendant’s Motion to Dismiss, however, the  
19 parties agree that the motion is of the type warranting a stay of discovery and that discovery is not  
20 necessary while the Court resolves the legal issues raised by the motion. Moreover, the parties  
21 attended an unsuccessful Early Neutral Evaluation on September 11, 2018. However, since that  
22 time, the parties have expressed a mutual desire to continue settlement discussions. A temporary  
23 stay of discovery would allow the parties to avoid unnecessary costs and fees while they explore  
24 settlement.

25 The requested stay is only to extend to discovery and remaining case deadlines and not to any  
26 briefing currently on file with the Court, including, but not limited to, Defendant’s Motion to  
27 Dismiss [ECF No. 9] and Plaintiff’s Motion to Amend [ECF No. 14]. The parties maintain their  
28 arguments with respect to all such motions. Accordingly, the parties request that discovery be

1 stayed pending a decision on Defendants' Motion to Dismiss [ECF No. 9] and Plaintiff's Motion to  
2 Amend [ECF No. 14] or up to and including Tuesday, March 19, 2019, whichever is earlier.

3  
4 Dated: September 20, 2018

Dated: September 20, 2018

5 Respectfully submitted,

Respectfully submitted,

6  
7 /s/ Jenny L. Foley

JENNY L. FOLEY, Ph.D., ESQ.  
HKM EMPLOYMENT ATTORNEYS  
LLP

/s/ Hilary B. Muckleroy

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LITTLER MENDELSON, P.C.

9 Attorney for Plaintiff  
10 PETER SLACK

Attorneys for Defendant  
UNITED AIRLINES, INC.

11 **ORDER**

12 **IT IS SO ORDERED.**

13 Dated: September 25  
14 \_\_\_\_\_, 2018.

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18 UNITED STATES MAGISTRATE JUDGE

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